

UNITED STATES CODE ANNOTATED
TITLE 25. INDIANS
CHAPTER 14--MISCELLANEOUS
SUBCHAPTER XLI--MENOMINEE TRIBE OF WISCONSIN:
RESTORATION OF FEDERAL SUPERVISION

§ 903. Definitions

For the purposes of this subchapter--

- (1) The term "tribe" means the Menominee Indian Tribe of Wisconsin.
- (2) The term "Secretary" means the Secretary of the Interior.
- (3) The term "Menominee Restoration Committee" means that committee of nine Menominee Indians who shall be elected pursuant to subsections (a) and (b) of section 903b of this title.

§ 903a. Federal Recognition

- (a) Extension; laws applicable

Notwithstanding the provisions of subchapter XL of this chapter, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the sections 461, 462, 463, 464, 465, 466 to 470, 471 to 473, 474, 475, 476 to 478, and 479 of this title are made applicable to it.

- (b) Repeal of provisions terminating Federal supervision; reinstatement of tribal rights and privileges

Subchapter XL of this chapter is hereby repealed and there are hereby reinstated all rights and privileges of the tribe or its members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to such subchapter.

- (c) Continuation of tribal rights and privileges

Nothing contained in this subchapter shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this subchapter.

- (d) Continuation of property or contractual rights or obligations and tax obligations

Except as specifically provided in this subchapter, nothing contained in this subchapter shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligations for taxes already levied.

- (e) Grants for services entitled to upon Federal recognition; terms and conditions; power of Menominee Restoration Committee

In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, are authorized

from funds appropriated pursuant to section 13 of this title, the Act of August 5, 1954 (68 Stat. 674), as amended [42 U.S.C.A. Sec. 2001 et seq.], or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Menominee Restoration Committee shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Menominee Restoration Committee. Provided, however, That the Menominee Restoration Committee shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

§ 903b. Menominee Restoration Committee

- (a) Nomination and election of members; time and procedure; ballot requirements; approval by Secretary; powers of Committee

Within fifteen days after December 22, 1973, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Menominee Restoration Committee. Such general council meeting shall be held within thirty days of December 22, 1973. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Menominee Restoration Committee from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Menominee Restoration Committee elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this subchapter and shall have no powers other than those given to it in accordance with this subchapter. The Menominee Restoration Committee shall have no power or authority under this subchapter after the time which the duly-elected tribal governing body takes office: Provided, however, That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of section 903a(e) of this title.

- (b) Eligible voters; notice by Secretary of nominating meeting and election

In the absence of a completed tribal roll prepared pursuant to subsection (c) of this section and solely for the purposes of the general council meeting and the election provided for in subsection (a) of this section, all living persons on the final roll of the tribe published under section 893 of this title, and all descendants, who are at least eighteen years of age and who possess at least one-quarter degree of Menominee Indian

blood, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(c) Membership roll; opening; revision procedure; prerequisites for inclusion; possession and maintenance of enrollment records and materials; appeal; finality of determination

The membership roll of the tribe which was closed as of June 17, 1954, is hereby declared open. The Secretary, under contract with the Menominee Restoration Committee, shall proceed to make current the roll in accordance with the terms of this subchapter. The names of all enrollees who are deceased as of December 22, 1973, shall be stricken. The names of any descendants of an enrollee shall be added to the roll provided such descendant possesses at least one-quarter degree Menominee Indian blood. Upon installation of elected constitutional officers of the tribe, the Secretary and the Menominee Restoration Committee shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll shall be performed in such manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within ninety days after an appeal is initiated.

§ 903c. Tribal Constitution and Bylaws

(a) Election; time and procedure

Upon request from the Menominee Restoration Committee, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of sections 461, 462, 463, 464, 465, 466 to 470, 471 to 473, 474, 475, 476 to 478, and 479 of this title for the purpose of determining the tribe's constitution and bylaws. The election shall be held within sixty days after final certification of the tribal roll.

(b) Distribution by Menominee Restoration Committee prior to election of proposed constitution and bylaws and brief impartial description; consultations by Committee with persons entitled to vote

The Menominee Restoration Committee shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and bylaws as drafted by the Menominee Restoration Committee which will be presented at the election, along with a brief impartial description of the constitution and bylaws. The Menominee Restoration Committee shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and bylaws. Such consultation

shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Election of tribal officers provided for in constitution and bylaws; time and procedure for initial election; subsequent elections governed by constitution, bylaws and ordinances

Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and bylaws and ordinances adopted thereunder.

(d) Majority vote necessary for passage and initial election of tribal governing body; minimum number of voters required to vote

In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and bylaws and the initial election of the tribe's governing body, so long as, in each such election, the total vote cast is at least 30 per centum of those entitled to vote.

(e) Revision of time periods pursuant to agreement of Secretary and Menominee Restoration Committee

The time periods set forth in section 903b(c) of this title and subsections (a) and (c) of this section may be changed by the written agreement of the Secretary and the Menominee Restoration Committee.

§ 903d. Transfer of Assets of Menominee Enterprises, Inc.

(a) Negotiation and development of plan for assumption of assets; submittal of plan to Congress

The Secretary shall negotiate with the elected members of the Menominee Common Stock and Voting Trust and the Board of Directors of Menominee Enterprises, Incorporated, or their authorized representatives, to develop a plan for the assumption of the assets of the corporation. The Secretary shall submit such plan to the Congress within one year from December 22, 1973.

(b) Acceptance of assets by Secretary; prerequisites; preexisting rights and obligations in assets; United States as trustee for land transferred; exemption from taxation for transfer of assets and assets transferred

If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty days of the date the plan is submitted to Congress, the Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (a) of this section, accept the assets (excluding any real property not located in or adjacent to the territory,

constituting, on December 22, 1973, the county of Menominee, Wisconsin) of Menominee Enterprises, Incorporated, but only if transferred to him by the Board of Directors of Menominee Enterprises, Incorporated, subject to the approval of the shareholders as required by the laws of Wisconsin. Such assets shall be subject to all valid existing rights, including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(c) Transfer to Secretary of real property of Menominee Tribe members; necessity for transfer by Menominee owner or owners; preexisting rights and obligations in land; United States as trustee for land transferred; exemption from taxation for transfer of assets and assets transferred

The Secretary shall accept the real property (excluding any real property not located in or adjacent to the territory constituting, on December 22, 1973, the county of Menominee, Wisconsin) of members of the Menominee Tribe, but only if transferred to him by the Menominee owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obligations. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) Consultation by Secretary and Menominee Restoration Committee with appropriate State and local government officials for non-impairment of necessary governmental services upon transfer of assets

The Secretary and the Menominee Restoration Committee shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

(e) Establishment of local government bodies, etc., by Wisconsin to provide necessary governmental services in Menominee County

For the purpose of implementing subsection (d) of this section, the State of Wisconsin may establish such local government bodies, political subdivisions, and service arrangements as will best provide the State or local government services required

by the people in the territory constituting, on December 22, 1973, the county of Menominee.

§ 903e. Rules and Regulations

The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this subchapter.

§ 903f. Authorization of Appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.



A P R O C L A M A T I O N

WHEREAS, on December 22, 1973, the Menominee Restoration Act reinstated the Menominee Indians of Wisconsin to the status of a federally-recognized, sovereign Indian tribe; and

WHEREAS, the Menominee Restoration Act requires the Secretary of the Interior and the Menominee Restoration Committee to consult with appropriate state and local government officials to ensure the orderly transfer of governmental functions pursuant to restoration; and

WHEREAS, such consultation has determined that the United States with the agreement of the Menominee Tribe is now prepared to accept a retrocession of jurisdiction acquired by the state over the Menominee Reservation pursuant to Public Law 83-661, 68 Stat. 795, amending Public Law 83-280, 67 Stat. 583, as codified at 18 U.S.C. Section 1162 and 28 U.S.C. Section 1360, and The Menominee Restoration Act, 87 Stat. 770, as codified at 25 U.S.C. section 903-903f; and

WHEREAS, acceptance by the Secretary of the Interior of such retroceded jurisdiction will affect only state jurisdiction acquired pursuant to Public Law 83-661, 68 Stat. 795, amending Public Law 83-280, 67 Stat. 588, as codified at 18 U.S.C. section 1162 and 28 U.S.C. section 1360, and the Menominee Restoration Act, 87 Stat. 770, as codified at 25 U.S.C. sections 903-903f; and

WHEREAS, acceptance by the Secretary of the Interior of such retroceded jurisdiction will in no way affect the exercise of state jurisdiction before the effective date thereof;

NOW, THEREFORE, I, PATRICK J. LUCEY, Governor of the State of Wisconsin, pursuant to the authority conferred upon me by the Menominee Restoration Act and authority vested in me as Chief Executive Officer of the State of Wisconsin, do hereby retrocede jurisdiction acquired by the State of Wisconsin over the Menominee Indian Reservation in Wisconsin pursuant to Public Law 83-661, 68 Stat. 795, amending Public Law 83-280, 67 Stat. 588, as codified at 18 U.S.C. section 1162 and 28 U.S.C. section 1360, and the Menominee Restoration Act, 87 Stat. 770, as codified at 25 U.S.C. sections 903-903f; and proclaim March 1, 1976, as the effective date for the orderly transfer of such jurisdiction.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison, this _____ day of February in the year of our Lord one thousand nine hundred and seventy-six.

STATE OF WISCONSIN
DEPARTMENT OF STATE
RECEIVED AND FILED

FEB 19 1976

DOUGLAS LAFOLLETTE
SECRETARY OF STATE

PATRICK J. LUCEY
GOVERNOR

By the Governor:

DOUGLAS LAFOLLETTE
Secretary of State